

????????? ????????

?????? ??? ?????????? (????? ??????? ??????????)

??? 8?? ?????????? 2020 (*)

«????????? ????????? – ?????? (??) 2018/957 – ?????????? ?????? ?????????? – ??????????
????????? – ??? ??????? ??? ?????????? – ?????? – ?????????? ??? ?????????? –
????????????? ??? ?????? ?????? – ?????? 53 ??? 62 ??? –????????? ?????? ??????????????
????? – ?????? 9 ??? – ??? ??? ?????????? ??? ?????????? – ?????????? – ?????? ???
????????????? – ?????????? (??) 593/2008 – ????? ?????? –????? ?????? –????? ?????? – ???
58 ???»

???? ?????? C?626/18,

? ? ?????????? ?????? ?????????? ?????? 263 ????, ? ?????? ?????? ?????? ???
3 ?????????? 2018,

????????? ??? ???????, ?????????????? ??? ??? B. Majczyna ??? ??? D. Lutosta?ska,
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????????? ????????????, ?????????????? ?????? ??? ??? M. Martínez Iglesias, K.
Wójcik ??? A. Pospíšilová Padowska, ??? ??? ??? ??? L. Visaggio, ??? ??? ?????? ???
M. Martínez Iglesias ??? K. Wójcik, ??? ??? ??? ??? L. Visaggio ??? A. Tamás,
?????,

????????????? ???:

??? ?????????? ??? ???????, ?????????????? ??? ??? J. Möller ??? T. Henze ??? ???
Möller ??? J. Möller,

? ? ?????? ??? ???????, ?????????????? ??? ??? E. de Moustier ??? A.?L. Desjonquères,
????? ??? ??? ??? R. Coesme,

? ? ?????? ??? ??? ???, ?????????????? ??? ??? M. K. Bulterman ??? C. Schillemans,
????? ??? ??? ??? J. Langer,

? ? ?????? ??? ???????, ?????????????? ??? ??? M. Kellerbauer ??? B.-R. Killmann,
????? ??? ??? ??? A. Szmytkowska,

???????????,

? ? ?????? ??? ???????, ?????????????? ??? ??? E. Ambrosini ???
K. Adamczyk Delamarre, ??? ??? ??? ??? A. Norberg, ??? ???????, ??? ??? E. Ambrosini, A.
Sikora-Kal?da ??? Z. Bodnar, ??? ??? ??? ??? A. Norberg,

?????,

???????????????:

??? ?????????????? ??????????? ??? ??????????, ?????????????? ??????? ??? ??? J. Möller ??? T. Henze, ??? ?? ??????? ??? ??? J. Möller,

?? ??????? ??????????, ?????????????? ??? ??? E. de Moustier ??? A.?L. Desjonquères, ????? ??? ??? ??? R. Coesme,

?? ??????? ??? ??? ???, ?????????????? ??? ??? M. K. Bulterman ??? C. Schillemans, ????? ??? ??? ??? J. Langer,

?? ??????? ??? ??????, ?????????????? ??? ??? C. Meyer-Seitz, A. Falk, H. Shev, J. Lundberg ??? H. Eklinder ??? ??? ??????? ??? ??? C. Meyer-Seitz, A. Shev ??? E. Eklinder,

? ?????????? ??????, ?????????????? ??? ??? M. Kellerbauer ??? B.?R. Killmann, ????? ??? ??? ??? A. Szmytkowska,

???????????????,

?? ?????????? (????? ??????? ??????????),

????????? ??? ??? K. Lenaerts, ???????, R. Silva de Lapuerta, ???????????, J.-C. Bonichot, ?. ?????? (????????), E. Regan, M. Ileši? ??? N. Wahl, ?????????? ???????, E. Juhász, D. Šváby, S. Rodin, F. Biltgen, K. Jürimäe, ?. ???????, P. G. Xuereb ??? N. Jääskinen, ????????,

?????? ??????????: M. Campos Sánchez-Bordona

?????????: R. ?ere?, ?????????? ??????????,

?????? ?????? ??? ?????? ?????????? ??? ??????? ??? ??' ?????????? ?????????? ??? ??' 2020,

???? ?????? ??? ?????? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??? ?? ?????????? ??? 28?? ??? 2020,

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1 ?? ?? ??????? ??? ??????? ???, ? ?????????? ??? ??????? ??? ?? ??
??????????, ??????, ?? ??????? ?? ????? 1, ?????????? 2, ??????? ??, ??? ?????????? 2,
???????? ??, ??? ?? ????? 3, ?????????? 3, ??? ?????? (??) 2018/957 ??? ??????????
????????????? ??? ?? ??????????, ??? 28?? ?????? 2018, ??? ?? ?????????? ???
???????? 96/71/?? ??????? ?? ??? ?????? ?????????? ??? ??????? ??? ?????? ??????????
(?? 2018, L 173, ?. 16, ??? ?????????? ?? 2019, L 91, ?. 77) (?? ????: ????????????)
??????, ???, ???????????, ?? ??????? ??? ?????? ??? ?????? ??? ??????? ??.

I. ?? ?????? ???????

1. ? ??????? ???

2. ?? ????? 9 ??? ??? ?? ???:

«????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????? ???, ? ????
????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????????? ???????????,
?? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ???, ?? ?? ?????????? ???
????????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ???, ?????????? ???
????????? ??? ?????????? ????.»

3 ?? ??? 53 ????:

«1. ??? ?? ?????????? ??? ?????? ??? ?? ?????? ?? ?????? ?????????? ???????????????, ??
????????? ??? ?????????? ??? ?? ?????? [?? ?????????? ???], ??????????????
?????? ?? ?? ?????? ?????????? ??????????, ?????????? ?????? ??? ?? ??????
????????? ??? ??????????, ?????????????? ??? ?????? ?????? ?????? ??? ?? ??????
??? ??????????, ?????????????? ??? ?????????? ?????????? ??? ?????? ??? ?? ??????
??? ?????????? ??? ?? ?????? ?? ?????? ??????????????.

2. ?? ??? ?? ??????, ?????????? ??? ?????????? ??????????????, ? ???????????
????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
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4 ??? ?? ??? 58, ?????????? 1, ????:

«? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ??????????.

5 ?? ??? 62 ????:

«?? ?????? ??? ?????? 51 ??? ?? 54 ?????????? ??? ?? ?????? ??? ?????????? ??? ??
??? ?? ?????? ??????..»

2. ? ?????????? ??? ?????? ??? ?????????????? ??????????????

1. ? ?????? 96/71/??

6 ? ?????? 96/71/?? ??? ?????????? ?????????????? ??? ?? ???????????, ?? 16??
????????? 1996, ??????? ?? ?? ?????? ?????????? ?????????????? ??? ??????? ?????????? ??????????
(?? 1997, L 18, ?. 1), ??????? ??? ?????? 57, ?????????? 2, ?? ?? ?????? 66 ??
(?? ?????? 53, ?????????? 1, ?? ?????? 62 ???, ??????????).

7 ?????? ?? ?? ??? 3, ?????????? 1, ??? ?????? 96/71, ?????? ??? ??? ??
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????????? ?????????? ?/?? ?????????? ?????????? ??? ??
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???.

8 ??? ?????????? ?? ??? ?????? ?????????? ? ?????? 96/71 ??????????, ??? ?????? 3, ??????????
1, ??????? ??, ??? ?????? ??? ?????????? ?????? ??????, ?????????????????? ???
????????? ?????????? ??????????.

2. ? ?????????????? ????

9 ? ?????????????? ?????? ??? ???? ? ???? ???? 53, ?????????? 1, ??? ??
????? 62 ????.

10 ?? ?????????????? ??????? 1, 4, 6 ??? 9 ??? 11 ??? ?????????????????? ??????? ???? ??
????:

«(1) ? ?????????? ??????????? ?? ? ??????????????, ? ?????????? ?????????????? ?? ? ??????????
 ?????? ?????????? ?????????? ?????????? ?????? ?? ?????????? ?????? ?????? ??
 ?????????????? ?? ? ??????? ?? ? ?????????? ?????? ?? ?????????? ?????? (?????). ? ??????
 ?????????? ?? ? ??????? ?? ? ?????????? ?? ? ?????????? ?? ? ?????? ?????? ?? ? ?????? ??
 ?????????? ?? ? ??????? ?? ? ?????????? ?? ? ?????????? ?? ? ?????? ?????? ?? ? ?????? ??
 ?????????? ?? ? ??????????.

[...]

(4) ??????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? 96/71[...], ??? ??????????
????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?????????????? ?? ?????????????? ?? ??????
????????? ?? ??????, ?? ?????, ?? ??????? ?? ?????????? ?? ?????????? ?? ?????? ?????????? ?? ?????? ??
????????????? ?? ?????? ?? ?????????????? ?? ??????????, ?? ???????, ?? ?????? ?? ?????????? ?? ?????????????? ??
????????? ?? ?????????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????????? ?? ?????????? ??
????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
?? ?? ?????????? ?? ?????????? ?? 96/71 [...], ?? ?????? ?? ?????? ?? ?????????????? ?? ??????
????????? ?? ??? ?? ?????? ?? ?????? ?? ?????? 2014/67/??. ?? ??? ?????????? ?? ?????????????? ?? ??? ??
????????? [?? 15?? ?? 2014, ?? ??? ?????????? ?? ?????? ?? 96/71 ?? ?? ??
????????????? ?? ?????????? (??) ??. 1024/2012 ??????? ?? ?? ?????????? ?? ?????????????? ?? ??????????
???? ?? ?? ?????????? ?? ?????????? ?? ??? ?? ?????????? ?? ?????? (“????????? ??”) (?? 2014, L
159, ?. 11)].

[...]

(6) ? ?????? ??? ????? ?????????????? ??? ? ?????????? ??? ????? ?????????? ??? ????? ?????????? ??? ????? ??????????

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????????? ??? ??????, ??? ?????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ???

??? ?????????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???

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????????? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???

??????. ?? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???

????? ?????????? ??? ?????? ???????. ???? ??? ?????? ??? ?????? ???? ?? ?????? ????, ???? ????

????????? ???? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??????.

[...]

(9) ? ?????????? ?????? ??????????? ??????????. ?? ?????????????? ??????????????
????????????? ??????? ?? ?????? ?????? ??? ?? ?????? ?????????????? ??? ?? ?????? ?????
??? ?????????? ??? ?? ?????? ?????? ?????? ??????????. ??????, ?????????????? ?????? ??? ?????
????????? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ?????? ?????? ??? ?????
????????? ??? ?????????? ?????? ?????????? ??? ?? ?????????? ??? ?????????? ?????? ??? ?????
????? ?????????? ??????????, ?? ?????????? ??? ? ?????????? ??? ?????????? ?????? ?????????? ???
12 ????, ?? ?????? ??? ?????????? ?? ?????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ???
????????? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????????? ???
????????? ???? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????????? ???

????????????? ??? ?????? ?????? ??? ?????? ?????????????? ? ??????????. ? ?????????? ????? ??
?????? ?? ?????????????? ??? ? ??????? ??? ?????????? ?????????? ?????????? ??????????????
??????????.

(10) ?????? ?????????? ? ?????????? ?????????????? ?????????????? ?????????????? ??? ?????????????? ??? ??
????????????? ??? ?????????? ?????????? ?????????? ?? ??????? ???, ??? ?????????????? ???
??? ??????????????, ??? ????? ??? ?????????? ??? ?????????? ??? ?????????????? ??? ?????????????? ???
????????????? ??? ??? ??????????. ??????, ?? ??????? ??? ?????????????? ?????? ???
????????? ??? ?????????? ??? ?????????? ?? ??????? ?? ?????????? ??? ?????????????? ???
????????? ?????????????? ??? ??????? ??? ?????? ?????? ?????? ?? ?????????????? ??? ??????????????
????????? ?????? ?????????? ?????????????????? ??? ?????????????? ??? ? ?????????? ??? ??????????
????????? ??? 12, ?, ???????, 18 ??????. ?????????? ??? ?????????? ?????????????? ???
????????????? ?????????????? ??? ??????? ??? ?????? ?????????? ??? ?????????????? ??? 12, ?, ???????,
18 ?????? ???, ??????, ?? ?????? ?????? ?? ??? ?????????????? ??? ?????????? ?????? ?????????????? ???
?????????, ?? ?????????????? ??? ?????? ?????? ?????? ?????????? ?????? ?????? ?????????????? ???
????? ?????????????????? ??? ?????????????? ?????? ?????????????? ?????? ?????????????? ??? ??????
????? ?????????????? ??? ???????????.

(11) ????? ?????????????? ??? ? ?????????? ??????? ?????? ??? 12, ?, ?????????, 18 ??????, ?
????????? ??? ???? ?????? ?????? ??? ?????????????? ??? ?????? ?? ?????????????? ??? ???
????????????? ??? ?????? ?????????????? ??? ?????? ?????? ?????? ?????? ?? ?????? ??????
?? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?????? ?????????????? ???
????????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???, ??? ??
????????????? ??? ?? ?? ????? ?????????????? ??? ?????????????? ??? ?????????????? ??? ??
????????????? ??? ?????? ??? ?????? ??????????..»

11 ?? ??????????????? ??????? 16 ?? 19 ?? ?????????????????? ??????? ?? ????:

«(16) ?? ??? ??????????? ??????????????? ??? ??????????????? ??????????? ??????, ??
 ??????????? ??????????????? ?? ??? ????? ??????????? ??? ? ???????????????, ?
 ???????????, ??? ? ??????????? ??? ?? ??????? ??????????? ??? ??????????? ??? ???????????
 ??? ?? ??? ??? ??? ??????????? ??? ??????????? ??? ?? ??????????? ??? ??? ??? ??? ???
 ??????????? ???.

(17) ?????? ????? ?????????????? ?????????????? ??? ?????? ?????? ?? ?????????? ???????
????????? ?? ??? ??????? ???????? ?? ??? ?????? ?????????? ?/??? ??????????. ? ??????????
??? ?????? ?????????? ??? ?????????????? ?????????????? ??? ?????? ?????? ?????? ??? ???
????????? ??????. ?? ?????? ?? ?????? ?????????? ??????? ??? ?? ??? ?????????? ??
????? ?????????? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ?????? ?????????????? ??

(18) ????? ?? ???????? ??? ??????? ??? ?????????????? ??? ?????????????? ?????????????? ???
 ????? ??????? ??? ?????????? ??????? ?? ???? ?????? ?????? ?/??? ??? ?????????? ??? ??????
 ????? ???????, ?? ??????? ?? ?????????? ?????? ?? ?????????? ?????? ??? ?????? .?????
 ????? ??????? ?? ?????????? ?? ?????????? ?????? ?? ?????????? ?????? ??? ?????? ??? ??????
 ????? ??????? ??????? ??? ??????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ??????
 ????? ??????? ??????, ?????????? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ??????
 ?? ??????? ?????? ??? ?????? ?????? ?? ?????????? ?????????? ?????? ??? ??????, ????
 ????? ??? ?????? ?? ?????????? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????????? ?? ??????
 ????? ?????????? ?????? ?? ?? ?????? ?????? ???/? ??? ?????? ??? ?????? ?????? ?????? ??? ??
 ????? ?????????? ?????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ??
 ????? ?????????? ?????? ?? ?????? ?????? ?? ?????????? ?????? ??? ?????? ??? ?? ?????? ???
 ????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??
 ????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
 ????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????.

(19) ?? ??????? ?? ??? ??????? ?????????? ?????? ?????? ?????????? ?????????? ???????.
 ????? ?????? ??? ?????? ? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ?????????? , ??? ??
 ????? ???????, ?????????? ??? ??????, ?? ?? ?????? ?? ?????????? ?????? ??? ?????? ??? ??????. ??
 ????? ???, ??????? ?? ??? ?????? ?????? ?????? ?????? ???/??? ?????? , ?????? ?????? ??
 ????? ?????? ?????? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????? . ? ?????????? ?? ?????? ??
 ????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??
 ????? ?????? ?/??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????.

12 ????? ??? ?????????? ?????? 24 ??? ?? ??? ??????:

«? ??????? ?????? ?????? ?????????? ??? ??????? ?????? ?????? ?? ??? ?????????? ???????
 ????? ?????? ??? ?? ?????????? ??? ?????????? ?????? ?????? ?????? , ?? ?????? ??? ??????
 ????? ?????? , ?????????? ??? ?????? ?????? ?????? ?????? ?????? , ?? ?????? ??????
 ????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? . ? ?????????? ?? ?????? ??
 ????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
 ????? ?????? ?????? ?????? ?????? .»

13 ?? ?????? 1, ?????????? 1, ??????? ??, ??? ?????????????? ?????? ?????? ?????? ???
 ????? 1 ??? ?????? 96/71 ??? ?????????? -1 ??? -1:

«-1. ? [?????? 96/71] ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ?????? ??
 ????? ?????? ??? ?????????? ??? ?? ?????? ?? ??? ?????? ?????? ?????? ?????? , ?????????? ??
 ????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ??
 ????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? , ?? ?????? ?????? ??? ?????? ??
-1. ? [?????? 96/71] ??' ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??
 ????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? , ?????????? ??? ??
 ????? ?????? ? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??
 ?? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? , ?????? ??? ?? ?? ??????
 ????? ???/? ?????? . ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? , ?????? ??? ??
 ????? ?????? ?????? ?????? ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
 ?? ?????? ?????? ???/? ?????? .»

14 ?? ?????? 1, ?????????? 2, ??????? ??, ??? ?????????????? ?????? ?????? ?????????? ??
 ????? 3, ?????????? 1, ?????? ?????? , ?????? ??, ??? ?????? 96/71, ?????????? ??
 ????? ?? ?? ?? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?? ?? ?? 3,
 ????? 1, ?? ???:

«1. ?? ?????? ??? ??????????? ????, ?????????? ??? ???? ?????? ??? ?????? ?? ???
?????????, ?????????????? ??? ???? ?????????? ??? ?????? 1 ?????????? 1 ?? ??????????, ????
??? ?????? ??? ??? ??????????????, ?????? ?????????????? ??? ?????? ?????????????? ???
?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?? ?? ?????? ??? ??????????
?????????, ?? ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????,
????????????? ???:

- ??????????, ?????????? ? ?????????? ?????? /???

- ?????????? ?????????? ? ?????????? ?????? ?? ?????? ?????? ?????? ?????????? ??
????????? ?????? ?????? ???' ?????? ?????? ?????????? ?????? ?? ??? ?????? 8:

[...]

) ?? ??????, ?????????????????? ??? ?????????? ?????? ?????????? ?????????? ?? ???
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) ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??
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) ?? ?????????? ? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ?????????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????
?????.

[...]

?? ???? ?????? ??? [?????? 96/71], ? ?????? ??? ?????? ?????????? ??? ?? ?? ??????
????? /??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??????????, ?????????? ??? ?????? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????? ?????????? ? ?????????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???' ?????? ???
????? ??? ??? ?????? 8.»

15 ?? ????? 1, ?????????? 2, ??????? ?, ??? ?????????????? ?????? ?????????? ???
????? 3 ??? ?????? 96/71 ??? ?????? 1?, ? ?????? ??? ?? ???:

«???? ? ?????????? ??? ?????? ??? ?????? ?????? ?????? 12 ????, ?? ?????? ???
????????? ???, ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
???? ?????????? ??? ?????? 1 ?????????? 1 ??????????, ?????? ??? ?????? ??? ??????
????????? ???, ????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
???? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? 1 ??? ?????? ????
????? ??? ?????????????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ???
????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???:

- ??????????, ?????????? ? ?????????? /???

- ??? ?????????? ?????????? ? ?????????? ?????????? ?? ?????? ?????? ?????? ??????????????
?? ?????? ?????? ?????? ?????? ? ?????????? ???' ?????? ?????? ?????? ?? ??? ??????????
8.

?? ?????? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ??????:

?) ?? ??????????, ?????????? ??? ?????? ??? ?? ?????? ??? ?? ??? ?????? ??? ?????? ??????????
?????????, ?????????????????? ??? ?????? ?? ??????????

?) ?? ?????????????? ?????????????? ?????????????? ??????????.

????? ?????????? ??? ? ?????? ?????????? ?????????? ?????????????? ??????????????, ??
????? ?????? ??? ?????? ?????????? ? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????????
??? ?????? ?????? ??? 18 ????.

????? ?????????? ??? ?????????? ??? ?????? 1 ?????????? 1 ?????????? ???
????????? ??? ?????????? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ??????
????? ????, ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ??????????.

? ?????? "????? ?????? ??? ??????" ??? ?????????? ??? ?????? ?????? ??? ??????????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????, ??
????????? ??? ?????? ??? ?????? ??? ?????????? ? ??? ?????????? ??? ?????? ??? ?????? ???.

16 ??? ???? 1, ??? 2, ??? ?????????? ???, ??? ?????????? ???, ?? ??????, ?? ???:
3, ??? ?????? 7, ??? ?????? 96/71 ?????????? ?? ???:

«?? ?????????? 1 ??? 6 ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ??????????.

?? ?????? ?? ??? ?????? ?????????? ?????????? ?? ?????? ??? ??????, ?????? ???
????????? ??? ?????? ?????????? ?? ?????? ??? ?????????? ?? ?????? ??? ?????????? ???
?????????, ??? ?? ?????? ??????, ?????? ??? ?????????? . ? ??????????, ?? ??? ??????????
??? ?????????? 1 ??? ?????? ??? ?????? ???), ?????????? ?? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????????? /??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ??????????.

????? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ?? ??? ?????? ??? ?????????? ??? ?????????? ?? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ??????, ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??
????????? ???.

17 ?? ??? 3, ??? ?????? 3, ??? ?????????? ??? ?????? ??? ???:

«? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ???
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? 2006/22/? [??? ??????????
????????? ??? ?????? ??? ?????????? ??? 15? ?????? 2006, ??? ??? ?????? ?????????? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? (???) ????. 3820/85 ???
(???) ????. 3821/85 ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? (?? 2006, L 102, ?. 35),] ??? ?????? ??? ?????????? ??? ?????? ???

????????? ??????? ??????? ?? ??? ?????? 96/71[...] ??? ??? ?????? 2014/67[...] ??? ???
????????? ??????? ??? ?????? ??? ?????? ?????? ??????»

3. ? ?????????? ??????? ?? ?? ?????????? ?????? ??? ?????????? ?????? ?????????? ??????

18 ? ?????????? ??? 40 ??? ???????? (?) 593/2008 ??? ?????????? ?????????? ???
??? ??? ??????????, ??? 17?? ?????? 2008, ??? ?? ?????????? ?????? ??? ??????????
????? (?????) (?? 2008, L 177, ?. 6, ??? ????: ?????? «????? ?»), ??? ?? ???:

«?? ?????? ?? ?????????? ??? ?????????? ??? ?? ?????? ?????????? ?????? ??????
????????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??????. ?
????? ??????????, ??????, ??? ?? ?????? ?? ?????????? ?? ?????????? ??????????
????? ?????????? ??? ?????? ?????? ?? ??? ?????????? ?????? ?? ?????????? ??? [?????
??? ??????] ??? ?????? ?????? ?????????? ?????????? ??????.

? ?????? ?????????? ??? ?? ?????? ?? ??? ?????? ??? ?????????? ?????? ?????? ?? ??????
????????? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ???
????????? ??????, ??? ?????? ??? ?? ?????????? ?????? ??? ?????? ?? ?????????? ?? ?????????? ???
????????? ?? ?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? [...]»

19 ?? ??? 8 ??? ?????? «????? ?», ?? ??? ?????? ??? ?????? «????????? ??????????
?????????», ?????? ?? ???:

«1. ? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ?????????? ?? ?????? ??????
?? ?? ?????? 3. ??????, ? ?????? ??? ?????? ?? ?????? ?? ?????? ?????????? ?? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?? ?????? ?????????? ???
??? ?????????? 2, 3 ?? 4 ??? ?????? ????, ?????? ??????.

2. ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ??????
????????? ??? ?? ???, ? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ?, ??????????
?????, ??? ?? ???, ? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???' ?????????? ???
?????????. ? ??? ?? ?????? ?????? ?????????? ?????????? ??? ?????? ?????? ??? ?????????? ???
? ?????????? ?????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ??????.

[...]»

20 ??? ?? ??? 9 ??? ?? ??? ???????:

«1. ?? ?????????????? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ? ?????? ???
????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?? .? .? ?? ?????? ??????, ?????????? ? ?????????? ?????? ???, ??
????? ?????? ??? ?? ?????????? ? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ???
????? ?????????? ???, ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????? ?????? ??? ?? ?????? ??????.

2. ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??? ??????
??? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????.

3. ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????? ??? ?????? ?? ?????????? ? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
??? ?? ??????, ??? ?????? ??? ?? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? . ?????? ?????? ?? ?????? ??? ?????? ??? ?? ???
????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??

?????????? ?? ?????????? ? ??? ?? ?????????? ????.»

21 ?? ?????? 23 ??? ?? ????? ??????????????, ?? ?????? ?????????????? «????? ?? ?????
????????? ?? [???????? ?? ??????], ?????????? ?? ????:

«?? ??? ?????????? ???. ?????? 7, ? ?????? ?????????????? ???. ?????? ???. ?????? ?????????? ???. ?????? ?????????? ???. ?????? [???????. ???. ??????] ???. ??????, ???. ?????? ??????, ?????????? ???. ?????? ?????? ?????????? ???. ?????? ?????? ???. ?????? ?????? ???. ?????? ?????? ???. ?????? ?????? ???. ??????»

II. ?????????? ???? ?????????? ???? ?????????? ???? ?????????? ???? ??????????

22 ? ?????????? ??? ?????????? ?????? ??? ?? ??????????:

- ??????,

- ?? ??????? ?? ??????? ??? ?????? 1, ??????????? 2, ????????? ??, ???
?????????????? ??????, ?? ??? ????? ??????????? ?? ??????? ??? ??? ????? 3,
?????????? 1, ????? ??????, ??????? ??, ??? ??? ????? ?????? 3, ??????????? 1, ?????
??????, ??? ?????? 96/71?

- ?? ??????? ?? ???? 1, ?????????? 2, ??????? ??, ??? ?????????????? ???????, ??
????? ??????? ?? ?????? ??? ?????? 3, ?????????? 1?, ??? ?????? 96/71, ???

- ?? ?????????? ?? ?????? 3, ??????????? 3, ??? ?????????????????? ??????????

- ??????????????, ?? ??????? ?? ???? ?????????????? ?????? ???

- ?? ??????????????? ?? ??????????????? ?? ?? ??????????????? ?? ??????????????? ?? ???????????????.

23 ?? ??????????? ?? ???? ?? ?????????? ?????? ?? ???? ?? ??????????? ?? ???? ?? ?????.
?????? ?? ???? ?? ?????????? ?? ???? ?? ?????????? ?? ???? ?? ?????????? ?? ???? ?? ?????????? ?? ????.

24 ?? ??????? ?? ?????????? ?? ?????????????? ?? ?????????????? ?? 2?? ?????????? 2019, ?????????? ???.
????????????? ?? ?????????? ?? ??????????, ?? ?????????? ??????????, ?? ?????????? ???.
????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????????????? ?? ?????? ?? ??????????.

25 ?? ??????? ?? ??????? ?? ?????????? ?? 2?? ??????? 2019, ??????? ??
?????? ?? ?? ??????? ?? ?????????? ?? ?????????? ??.

III. ??? ??? ??? ??????????

26 ? ??????????? ???. ????????. ??????????, ??????, ????????. ?????????? ?????? ?????? ????????.
????????????? ?????? ?????? ???. ?????????? ?????? ?????? ???, ??????????, ?????? ??? ???.
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

27 ?? ??????????? ??????????? ?? ?? ?????? ??????? ?? ?? ??????????? ?? ?? ??????????? ?? ?? ???????????,
?????? ?? ?? ??????????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????????? ?? ?? ??????? ?? ?? ???????
?????????? ?? ?? ??????????? ?? ?? ???????.

1. ??? ??? ?????????? ??? ?????? ?????? ??????????

28 ?????????????? ???. ? ?????? ?????? ?????? ?????? ???. ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?? ?????? ???. ??? ?????? ?????? ? ?????? ?????? ???. ?????? ?????? ???. ?????? ?????? ?????? ???. ?????? ??????
??????. ??????, ?? ?????? ?????? ???. ?????? ?????? ???. ?????? ?????? ???. ?????? ?????? ???. ?????? ??????
??????. ??? ?????? ?????? ???. ?????? ?????? ?????? ???. ?????? ?????? ???. ?????? ?????? ???. ?????? ??????

?????????? ? ????? ?? ??????? ?????? (?????????? ?? 12?? ??????? 2015, ??????? ??????? ?? ??????? ???????, C?121/14, EU:C:2015:749, ????? 20, ??? ??? 9?? ??????? 2017, SolarWorld ??? ???????, C?204/16 P, EU:C:2017:838, ????? 36).

29 ???????, ? ??????? ?? ?????????????? ?????????????? ?????????????? ??? ?????????? ??? ?????
????????????? ??? ??????? ?? ?????????????? ??? ?????, ?????????????? ?? ?????????? ?? ? ???????
??? ?????????? ??? ?? ?????????? ?? ??????? ?? ?????? ??? ??? ?????? ??? ?? ??? ?????? ??????
(????????? ??? 12?? ?????????? 2015, ??????? ?????????? ??? ?????????????? ???
???????????, C?121/14, EU:C:2015:749, ?????? 21, ??? ??? 9?? ?????????? 2017, SolarWorld
???? ????????????, C?204/16 P, EU:C:2017:838, ?????? 37).

30 ???????, ?? ?????? ?? ? ?????? ??????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????????????????
?????? ?????? ??? ?????????????? ?????????? ??? ?????? ??? ?????????????? ?????????? ???
????????? ?? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? (????????? ??? 30?? ?????? 2006, ??????? ??? ??????????, C?36/04,
EU:C:2006:209, ??? 14, ??? ?? 29?? ?????? 2012, ??????? ??? ????????, C?505/09 P,
EU:C:2012:179, ??? 121).

31 ????? ?? ?????? 1, ??????????? 2, ???????? ??, ??? ??? ?? ?????? 1, ??????????? 2,
???????? ??, ??? ?????????????? ??????? ?????????? ?????????????? ????? ?????? 96/71,
??????, ?????????????????? ??? ?????? ??? «????????? ????? ?????» ?? ??????? ???
«??????» ??? ????? 3, ?????????? 1, ????? ??????, ????????? ??, ??? ?????????? ?????
???????? ??, ???????, ?????????? ??? ?????? 3 ??? ? ????? ?????? ??? ?????????? 1?, ?
????? ?????????? ?????? ??????? ??? ??? ?????????? ?????????? ?????????? ??????????
?? ?????? ?????.

34 ?? ?? ???????, ?? ?????? ?????????? ?? ?? ?????? ?????????? ? ??????? ?? ??????? 1,
?????????? 2, ??????? ??, ?? ?? ?????? 1, ?????????? 2, ??????? ??, ??
????????????? ??????? ?? ?????????????? ??????????, ????? ?? ?????????? ????? ??
?????? ?? ?????????????? ??, ?? ?? ?????? ??.

35 ??????????, ?????????? ?? ???? 3, ?????????? 3, ??? ?????????????? ???????,
??? ?????? ?????? ?????????????? ?? ???? ??????????, ?????????? ?????? ??? ? ?????? ??
????????????? ??? ?????? ??? ?????????? ??? ??? ?????????? ?????????? ??????????
????????????? ????, ? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

36 ????????? ??? ? ??????? ?????? ??? ???????????, ? ??????? ??????????? ?????? ??? ??
?????????, ?????? ?????? ??? ?????? ??? ??? ??????????? ????????, ?? ?????? ?? ??????
????????? ???? ??? ??????? ??? ??????????? ?????? ?????? ???????.

2. ??? ??? ?????????? ??????????

37 ??? ?????? ??? ?????????? ???, ? ?????????? ??? ?????????? ?????????? ???
?????? ??????????, ?? ?????? ?????????? ?????????? ?? ?????????? ??? ?????? 56 ???
??? ?? ??? 1, ?????????? 2, ?????????? ?? ??, ??? ?????????? ?????? ???, ???
????????? ?????????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????????
????????? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?? ??????????.

38 ?????? ?? ?????????? ???' ???? ? ?????? ? ?????? ?????? ?????? ??????????, ??????? ?????? ???
?????? ??? ?????? ??? ?????????? ??????, ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ???, ??? ??????, ? ?????? ?????? ?????? ?????????? ???, ???, ?
????? ??? ?????? ??????.

1. ??? ??? ?????????? ?????? ??????????, ?? ??? ?????? ?????????? ?????????? ? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ???

1) ?????????? ??? ??????

39 ? ?????????? ??? ?????? ?????????? ?? ?????????? ??? ?????? 53, ??????????
1, ??? 62 ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??????, ??? ?????? ? ??????????, ??
????????? ?? ??? ?????? 96/71, ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ??????????.

40 ?????????? ??? ?????? ??? ? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ???, ??? ??????, ?? ?????? ?? ??? ??? ??
????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

41 ???????, ?????????? ??? ?? ??? 1, ?????????? 2, ?????????? ?? ??, ???
????????? ??? ?????? ?? ??? ?? ??? ?? ?????????? ??? ?????? ?? ?????? ?? ??????
????????? ??? ?????? ??, ?????????? ??? ?????? ?? ?????? ?? ?? ?????? ?? ?????? ???.
????????? ??? ?????? ?? «????????? ??? ?????? ??» ??? ?? ?????? ??? «?????????»
??? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

42 ?? ?????????? ??? ?? ??????????, ?????????????? ??? ??? ?? ??????????
????????? ??? ??????????, ?? ?????? ??????????, ?? ?????? ??? ?????? ???, ??
????????? ??? ?????????? ??? ??? ??????????, ?????????? ??? ?????????????? ???
????????? ??? ??????.

2) ?????? ??? ??????????

43 ?????????? ?? ???????, ??????, ??? ? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?? ?????????? ?? ?????????? ?????? ?????? ?????????? ??? ??????
?????, ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
?????. ??? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ??? ? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ? ? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
? ? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???

?? ??? ???? ????? ?????? ???, ??? ???? ?????? ??? ???????????? ??? ???? ??? ???? ???? ?????????????? ???.
????? ? ??? ???? ???? ???? ?????????????? ?????????? (??????? ??? 3?? ?????????? 2019,
??????? ?????????? ??? ???? ?????????? ??? ???? ??????????, C?482/17, EU:C:2019:1035, ???
31 ??? ??? ?????????????? ??????????).

44 ?????????????? ??? ?????? ??? ?????? ?? ?????????? ???, ??? ??? ?????????? ???
????????? ??? ??????, ?? ?????? ?????? ??? ?????? ?????????? ??? ??? ??? ??????,
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ????
????? (????? ??? 3?? ?????????? 2019, ?????? ?????????? ??? ?????? ?????????????? ???
?????????, C?482/17, EU:C:2019:1035, ??? 32).

45 ?? ? ? ??????, ?????????? ??? ?????? ???, ??? ? ?????????????? ???,
????????? ??? ?????????? ??? ??????, ??? ??? ?????????? ??? ?????? ??? ??????
????? ?????? ?? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ??????
????????? ???, ???, ? ?????? ??? ?? ?????????? ??? (????? ??? 3?? ??????????
2019, ?????? ?????????? ??? ?????????????? ??? ?????? ??????????, C?482/17, EU:C:2019:1035,
????? 42).

46 ??????, ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??????, ? ?????????? ??? ??????
????? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ? ? ?????? ?????? ??? ??????, ?????????? ??? ?????? ??? ?????????? ??? ??????
?? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ? ?????? ???
??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??
????? ??? ??????, ??? ?????? ?????????? ??? ?? ?????? 9 ??? ?????? ???, ???
????? ?????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? (????).
????? ??? 21?? ?????????? 2016, ??? ??????, C?201/15, EU:C:2016:972, ??? 78).

47 ??????, ? ?????? ??? ?????? ??? ??????, ?? ??? ?????? ??????????, ?? ??????????
????? ?? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ???
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ???
????????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?
????? (????? ??? 3?? ?????????? 2019, ?????? ?????????? ??? ?????? ?????????????? ???
?????????, C?482/17, EU:C:2019:1035, ??? 39 ??? ?????? ?????????? ??????????).

48 ??????, ?????????? ???, ??? ?????? ?????? ??? ?????? ?????????? ?????????? ???
?? ?????? ?? ?????????? ?? ?????? ??? ?????? ??? ??????, ? ?????? ??? ?????? ?? ??????????
?? ??? ?????????? ?????? (????? ??? 12?? ?????????? 2015, ?????????? ???
?????????, C?48/14, EU:C:2015:91, ??? 36 ??? ?????? ?????????? ??????????).

49 ??????, ??? ??? ?????? ??? ?????? 53, ?????????? 1, ??? ??? ?????? 62 ???
????????? ??? ? ?????????? ??? ?????? ?????? ?????? ?? ?????? ?????? ??? ??????
?????, ?????? ???, ?? ?????? ?? ?????????? ??? ?????? ??????????, ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ??????????, ?????????? ?? ?????????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ??? ?????? ???.

50 ??????, ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ??????, ??? ??? ?????? ???, ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

51 ??????, ??? ?????? ??? ?????? ??? ?????? ???, ??? ??? ?????????? ??? ?? ???

??????????, ? ?????????? ??? ?????? ?????????????? ??? ??? ?????????? ?? ?????? ??? ?????????? ??? ???
??? ?????? ??? ?????? ?????????????? ?? ?????? ?????????? ?? ?????? ??? ?????? ???, ????
??? ??? ?????? ??? ?????????????? ??? ??? 9 ????, ??? ?????? ??? ?????? ?? ??????????
????? ? ?????? ??? ??? ?????????? ??? ??? ?????????? ??? ??? ?????????? ??? ?????????? ??? ???
?????? ??? ??? ?????? ?????? ?????????? ?????????????? ??? ?????????? ??? ?????????? ??? ??????????
????? 46 ??? ?????? ??????.

52 ?? ?? ??????, ?????? ??????????? ?? ?????????????? ??? ?? ?????????? ?? ?? ?????????? ?? ?? ?????? ??
?? ?????? 53, ?????????? 1, ?? ?????????? ?? ?? ?????? 62 ????, ? ?????????? ?? ?? ?????? ??
?????? ?? ?????????? ?? ?????????? ?' ???? ?? ?????? ?????? ??? ?? ?????? ??
????? ?????? ??? ?? ?????????? ?????? (????. ?????????? ?? 13?? ?????? 1997, ??????
???? ?????????? ?? ??????????, C?233/94, EU:C:1997:231, ????? 17, ??? ?? 4?? ?????
2016, Philip Morris Brands ?.??., C?547/14, EU:C:2016:325, ????? 60 ??? ????? ??????????????
?????????).

53 ?? ?? ???????, ?? ????? ?????????????? ?? ?? ?????????? ? ??????????? ?? ?? ??????? ?? ?? ?? ??
?????? 53, ?????????? 1, ????, ?? ?????????? ?? ?? ?????? 62 ????, ?????? ?? ?????? ??
????? ?? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????? ??
?? ??????????, ??????????, ??? ?????????? ?????? ?????? ?????????? ?????????? ?? ?? ?? ??
????? ?? ?? ?????? ?? ?????????? ?? (????. ?????? ?? 4?? ????? 2016, Philip Morris Brands
?.., C547/14, EU:C:2016:325, ??? 60 ?? ?? ?????????????? ??????????).

54 ?????????????? ??????????, ??????????????? ???, ???????? ? ?????????????? ?????? ??????
????????? ?????????? ?????????? ??? ?????? 96/71 ? ??????? ?? ?????? ??? ?????? ?????? , ?
????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ?????? , ???
????????? ?????????? ?? ?????????? ?????? 1 ??? 4 ??? ?????? ?????? ???, ??? ??????
??? ??? ?????? ?????????? ??? ? ?????? ?????????? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????? ??? ?????????? ?????? ?????? ?????????? ?????? ??? ?????????? , ???
????????? ?????????? ??? ??? ?????????? ?????? ?????? ?????????? , ?? ?????? ?? ??????????
????????? ??? ?????????? ??? ??? ?????????? ??? ??? ?????????? ??? ??? ?????????? ???
????????? , ??? ??? ?????? ??? ??? ?? ??? ?????????? ?????? ?????? ?????????? ???,
????????? ??? ?????? ??? ??? ?????? ???, ??? ?????? ??? ?????? ?? ?????????? ??? ??????
? ?????? 96/71 ?????????? ?? ?????????? ?? ?????? ?????? ?????????? ?????? , ?????? , ???
?????? ?? ?????????? ?? ?????? ?????? ?????? ?????????? ??? ?? ?????????? ?????? ???
????????? ???, ?????? , ??? ?????? ?? ?????????? ??? ?????? ?????????? ???

???? ?????????? ??????? ?????????? ?? ?????? ???», ????? ?????????? ?????? ??????????????
????? 10 ??? ?? ??? ?????.

57 ????? ???? ?????? ??????, ? ?? ????? ?????? ??????????? ?? ?????????? ?????? ??????????
???? ????? ?????????? ??? ?????????????? ??? ?????????????? ?????????????? ?? ?????????? ???
????????? ??? ????? ?????????????? ?? ?????? ?????????????? ??? ??????????????
????????????????? ??? ?????? ?????? ?????? ???????, ?????? ??? ?? ???????????, ???' ?????? ???
?????, ??????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?? ??? ?????? ????.

58 ????? ????????, ??? ????? ?? ?????????????? ???, ? ?????????????? ?????? ????????,
????? ?? ??? ?????????????? ??? ?? ?????????? ??? ??????????, ?? ?????????? ??
????????? ??? ?????? ???? ? ?????????? ??? ?????????? ??????????, ??????? ?? ?????? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????? ??????.

59 ????????? ?????, ???????, ?? ?????? 1, ??????????? 1, ??? ??????? ?????? ??????????? ??
????? 1 ??? ??????? 96/71, ???????????, ??????, ??? ?????????? -1 ? ??? ?????? ??????? ??
????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??
?? ??????? ?? ?????????? ??? ???, ???????, ??? ?????????? -1?, ?? ??? ????
????????????? ??? ? ?????? 96/71 ?????? ?????? ??? ?????? ??? ?????? ??? ??????.
????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

60 ????????, ?? ??? 1, ?????????? 2, ????????, ??, ??? ?????????????? ??????
????????? ?? ???? 3, ?????????? 1, ??? ?????? 96/71, ?????????????? ?? ????
????????? ?? ???? ??? ?????????? ??? ????? ?????????? ??? ?????????????? ?? ???? ????
????????? ?????? ?????????????? ??????????. ?????????? ??? ?????????? ?? ???? ???? ???? ??
????? ?????? ? ??????? ???, ??????, ??? ?????????? ?????????? ?? ????????????, ???
????????? ??? ??? ?????????? ?? ?????????????? ?????? ??? ?????????? ?? ???? ?????????? ???,
??, ???????, ??? ?????????? ??? ??? ????? ?????????? ?????? ??? ??? ?????? ??? ??????
????????, ?????????? ??? ?????? ??? ?????????????? ??? ?????????????? ?????? ??? ?????? ???
??? ?????????????? ??????. ???????, ??? ??? 3, ?????????? 1, ??? ??????,
????????? ??, ??? ?????? 96/71, ??? ?????????????? ?? ??? ?????????????? ?????? (???)
?????: ?????????????? ?????? 96/71), ? ?????? ??? «????????? ??? ??????»
????????????? ??? ??? ?????? ??? «?????????».

61 ???????, ? ?????????????? ?????? ??????? ?? ?????????? ?????? ??????? ??
????????? ?? ?????????? ??? ??????? ?????? ???????, ????????????, ?? ??? ??????
??? ?????? 3, ?????????? 1?, ??? ?????? 96/71, ??? ??????? ?? ??????? ?????? ???
?????????? ?? ?????? ?? ?????????? ??? ? ?????????? ??????? ??????? ?????????? ??????????
????????? ?? ?????? ??????.

62 ??? ?? ??????? ?????????? ???, ?? ??????? ?? ?? ??? ?????????????????? ??? ??????????
? ?????????? ??? ????????, ? ?????????????? ?????? ?????? ?????? ?? ?????? ??? ?????? ???
????????? ??? ?????????? ??????? ?????????? ?? ?????? ???, ? ?????? ?????????? ??? ?????
????? ???, ??? ?????? ??? ?????????? ??? ?? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????????? ???
??? ?????????? ??? ?????????? ??? ?????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ???, ???
????????? ?????????? ??? ?????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ???
????????? ??? ?????? ?? ?????? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? ?????? ???
????????? ??? ?????? ?? ?????? 96/71.

63 ??????, ? ?????? 96/71, ?????? ??????????? ?? ??? ?????????????? ?????? 1 ????
????????? ??? ???????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??????

??? ?????? ????, ??????????? ??? ????? ?????????? ??? 5 ??? ? ?????? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ?? ?????????????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????.

64 ??' ??? ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????????? 13 ??? 14 ??? ??
??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???, ??? ?? ?????????? ???
«????? ???» ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????????? ???
?? ?????? ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ???.

65 ??? ?? ?????? ?????????? ???, ??? ??? ?????? ???, ? ?????? 96/71, ??????
????????? ?? ?????? ??? ?????????? ??? ?????????? ?????????? ??????????, ?????? ??? ?????
??? ?????? ?????????? ??? ?????????????? ? ?????? ??? ?? ?????????? ??? ?????? ??????????,
??? ??? ?????? ???, ??? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ??????????,
????????? ??? ?? ? ?????????? ??? ?????????????? ?? ?????? ?? ?????? ???, ???,
?????????, ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?????? ??????????,
?? ?????? 3 ??? ?????? 96/71 ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ???
????????? ?????? ?????????? ??? ?????? ?????? ?????? ?? ?????????? ?????? ?????????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????????? ???.

66 ???????, ?????????? ???, ??? ?????????? ??? ?????? 41 ??? 42 ??? ??????
?????????, ???? ? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??
????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?? ?????? ?????????? ???
????????? ?? ? ?? ?????? ??? ??????, ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???.

67 ?????????? ???, ???, ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ??????
????????? ? ?????????? ???, ??? ?????? ??? ?????? ?? ?????? ? ?????? 96/71 ?
????????? ??? ?????? ?????? ?????????? ???, ??? ?????? ?????? ?????????? ??????????
?? ?????????? ?????????? ??? ?????? ??? ?? 2004, 2007 ?? 2013, ?? ?????? ???
?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ??? ???.

68 ???????, ??? ?????????? ?? ?????????? ?, ?????? ?????? ?????????? ??? ??????
????????? SWD(2016) 52 ??????, ??? 8?? ?????? 2016, ?? ?????? «????????? ?????????? ???
????? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ???
????????? ??? ?????? 96/71» (??? ????: ?????? ??????????), ??? ? ?????? 96/71
????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ???,
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ???,
????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ???.

69 ?????? ????, ?????????? ??? ?????? ??? ?????? 96/71 ?????? ? ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????
????? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????, ?
????????? ??? ?????? ??? ?????? ??? ?????? ??????, ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? 67 ??? 68 ???
????????? ??????, ?? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ???
????? ??? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? 96/71.
?????????, ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??????
?? ?????? ??? ??????????, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??????

? ?????????????? ??? ?????????? ??? ?????? ?????? ?????????????? ? ??????? 96/71, ?????????????? ??
????????? ??? ?????????????? ??? ?????? ?????? ?????? ?????????????? ??? ?????? ?????? ???
?? ?????????????? ?? ?????????????? ?????????? ?????? ? ?????????????? ?????? ???
????????????? ??? ?????????? ?????????????? ?? ??? ?????? ?????? ??? ?????? ??? ??????????????
??? ?????? ?????????????? ?? ???.

70 ??? ??? ?????????? ????, ? ?????????????????? ??? ?????????????? ??? ?????????? ??
?????? ?? ??? ?????? ?????????????? ?????? ??? ?????? ?????????????? ?????? ???
????????? ??? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??

71 ??? ??????????, ? ?????????? ??? ?????? ?????????? ??? ?????? ?? ??????????.

2. ??? ??? ?????? ?????? ?????? ??????????, ?? ??? ?????? ?????????????? ?????????? ???
????? 56 ??? ?? ????? 1, ?????????? 2, ?????????? ?? ??? ?, ???
????????????? ??????

1) ?????????? ??? ???????

72 ?? ??? ?????? ??? ??????????, ? ?????????? ??? ?????????? ?????????????? ??? ?
????????????? ??? ?????? ?????????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??
????? ?????????? ??? ?? ?????? 56 ???, ?????? ?????? ?????? ??? ?????? 96/71 ??? ??????????
?? ?????? ??? ?????? ?????? ??? ?????????? ?????? ?????????? ??????????????, ??????, ??????
????????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ???, ?????????,
????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?? ?????????? ? ???
????????? ?????, ??????, ???' ?????, ? ?????????? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ?????????????? ???.

73 ?? ?? ?????? ?????? ??? ?????? ?????? ?????? ??????????, ? ?????????? ??? ??????????
?????????, ????, ??? ? ?????????? ??? ???? «????????? ??? ?????? ???» ???
??? ?????? ??? «????????», ??? ?????? 3, ?????????? 1, ?????? ??????, ?????????? ??, ???
????????????? 96/71, ?????? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ??????????
????? ?????? ?????? ?????????? ??????, ?????? ?????????? ?????????? ?????????? ?????????? ???
????????? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ?????????????? ???
?????????.

74 ???????????, ??, ???, ???' ?????? ??? ??????, ? ?? ??? ?????? ?????? ??? ?????????????? ???
?????? 96/71 ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????????? ???
????????????? ?? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ??????.

75 ??????, ? ?????????? ??? ?????? ?????? ??????????, ??????, ??? ? ?????????? ????
????????? ??? ?????? ?????????? ?? ?????? 56 ??? ?????? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ?????????? ?? ?????????? ??? ?????????? ???, ??????, ??? ?? ??????????
????? ?????????? ?????????? ?? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ???
????? ?????????? ?????????? ?? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ???
????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

76 ??????, ?? ?????????? ?????? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?????????? ???
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???, ?????????? ???
????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???, ??? ?????? ???
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????.

????????????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

77 ???????, ???? ??? ??????????????, ??? ??????? ?? ?????????? ??? ?? ?????????????? ???
 ??????? ? ?????????????? ?????? ?????????????? ?????? ?????????????? ?????? ?????? ??????
 ?????????? ? ??????????????, ?????? ?? ??????? ??? ?????????? ??? ?????????????? ??? ??
 ??????? ??? ??????? ?????????? ?????? ?????? ?????? ??? ?? ??? ?????? 96/71.

78 ? ??????????? ???. ????????. ?????????????? ???. ???, ????. ?????????????? ???. ??????????????
?????. 16 ????. ???????????????. ????????. ????. ???. ??????. ??????. ????. ??????. ????. ??????. ??????. ?
?????. ????. ????. ??????. ??????. ????. ???. ??????. ????. ???. ??????. ??????. ??????. ??????. ??????. ?
?????. ????. ???. ??????. ??????. ??????. ??????. ??????. ??????. ??????. ???'. ??????. ??????. ?
?????. ????. ???. ??????. ??????. ??????. ??????. ??????.

79 ? ??????????? ???. ???? ??????? ??????????????? ??????? ???. ??? ???. ??????? ??????? ???.
?????????????? ???. ??????????????? ???. ???? ? ??????? ??????????? ???. ??????????????? ???. ???? ???.
????? ??????????? ???. ??? ???. ??????? ???. ??? ???. ??????? ???. ??????? ???. ??????? ???.
???. ??????? ???. ???. ??????? ???. ??????? ???.

80 ?? ?? ??????? ?????? ?? ?????? ?????? ?????? ???????????, ? ??????????? ?? ??????????
?????? ?? ?? ????? 3, ?????????? 1?, ??? ?????????????? ?????? 96/71, ??????
????????? ?????????? ??????? ?????????? ?????? ??? ?????????? ??? ?????????? ???
????? ?????? ??????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ???, ??????
????????? ??? ??????? ?????? ?????????? ???? ?????? ?????????? ??? ?????? ??? ??????????????
???? ??????? ??? ??????? ?????? ?????????? ???? ?????? ??????????.

81 ????? ??? ?????, ? ??????? ?????? ????? ?????????????? ?????????????? ?????????????? ??? ??????????????
????????????? ??? ?? ???? ?????? ?????? ?????????? ??? ?????? ?????????????? ?? ?????? ??? ?????? ????
????????????? ??? ?? ???? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ????
??????, ??? ?? ???? ?????? ??? ?????????????? ??? ?? ?????? ??? ?? ?????? ??? ? ?????????? ??? ?? ??????
??? ?????????? ??? ?? ???? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?? ???
?? ??? ??????.

83 ? ??????????? ???. ????????. ?????? ???. ???. ?????? 3, ??????????? 1?, ???.
???????????????. ????????. 96/71 ???. ????????. ???. ???. ?????? 9 ???. ??????????? «????? ?», ???.
???. ???. ??. ?????? ???. ????. ????????. lex specialis, ???. ???. ?????? ???. ?????? 23 ???. ???.
????? ???????????.

85 ??????, ? ?????????????? ?????????????? ??? ??? ?????????????? ?????????? ?????????????? ???
??? ?????????????? ??? ?????????? ??????????, ?? ?????? ?????????? ?? ?????????? ?? ?????????? ??
????? ???.

86 ?? ?????????????? ?? ???? ?? ???????????, ?????????????????? ?? ???? ?? ??????????????
?????????? ?? ???? ????????, ?? ?????????? ?? ???? ?? ????, ?? ?????????? ?? ???? ??????? ?? ???? ??
????????, ??????????? ?? ???? ?????????????????? ?? ???? ?????????? ? ??????????? ?? ???? ??????????
???? ???? ?? ???? ?? ??????? ?? ???? ?????? ?? ???? ?????? ?? ???? ???????.

2) ??????? ?? ????????????

1) ?????????????? ??????????????

87 ????? ???????, ?????????????? ??? ?? ?????????? ????? ?????? ??? ? ?????????? ???
????????? ??? ????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ???? ?????? ???
??? ??? ?????? ?????????? ??? ?? ?????? ?????? ??? ?????? (??????? ??? 26??
????????? 2010, Schmelz, C?97/09, EU:C:2010:632, ??? 50 ??? ??? ??????????????
?????????).

88 ???????, ??? ??????????? ?? ?? ????? 53 ??? ?????????? ??????????, ??? ?????? ??
????????? ?????????????? ?? ??????????????, ??? ??????????, ??? ?????????? ?? ????
?????????, ?? ????? ?? ?????????? ? ?????????? ?? ???????, ??? ?????????? ?? ????
????????????? ?? ??????????? ?? ??????? ?????? ?? ?????? ?????? ?????????????? ??
?????????? ?????, ??? ?? ????? ?? ?????? ?? ?????? ?? ?????????????? ?? ?????? ?? ???? ??
?? ??????????, ??? ?? ?? ??????????????, ?? ?????? ?????? ??????????, ??? ?????????? ?? ????
????????? ?????????? ?????????????? ?? ?????????????? ?? ??? ???????, ?? ?????? ?????? ?????????? ??
????????? ???.

89 ?????? ??????? ?????? ????, ???? ?????? ?????????????? ???? ?? ???? ?????????? ????
????????? ??????? ??????????, ? ?????????? ??? ?????? ?????????? ?????? ?? ??????????????
??? ?? ??????? ???? ??? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ???
????????? ???? ??? ?????????? ?????? ??? ?????? (??., ???' ??????????, ???????
??? 13?? ????? 1997, ?????????? ??? ?????????????? ??? ??????????, C?233/94,
EU:C:1997:231, ??? 17).

90 ????, ????, ?????????????? ??? ?????? 56 ??? ?????? ????????, ? ?????????? ???
?????? ?????????? ?? ??? ?????? ??? ?????????????? ??????? ?? ?????????? ??? ??????????
?????? ?????????? ?? ?????? ???, ??? ?????? ?????????????? ??????? ?? ?????????? ??? ??????????
?????????? ? ?????? ??? ?????????? ??? ?????? ????????, ?????? ??? ?????? ?????? ???????,
???? ??????? ?? ?????? ??? ?????????? ??? ?????? ?????????? ????????, ??????? ?? ? ?
????????? ?????? ?????? ?????????????? ??? ?????? ?????? ???, ??? ?????? ?????? ????????
????????? ?????? ?????? ?????????????? ??? ?????? ?????? ???, ???? ?????? ?????? ???

????? ??? ? «????????????? ??? ?????????? ???????? ?????????? ?? ?????? ???», ???? ??????????
? ??????????? ??? 10 ??? ? ???? ?????.

91 ???? ????? ????????, ? ??????? ??? ??????, ???? ?????????????????? ?????????? ??????????
????? ?????????????? ?????? ??? ??? ???? ?????? ??? ?????????????? ??? ?????????? ??? ??????
????? ??? ???? ??? ?????? ?????? ?????????? ??? ??????????????, ???? ?????? ? ??????????????
??????, ??????? ?? ?????????? ???, ???? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????
? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ???? ?????? ??? ?????? ??? ??????
??? ?????? ??? ??? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????.

92 ????, ????, ? ???? ??? ????? ?????????????? ??? ???? ???? ??? ?????? ???????????????, ???
?????? ?????????????? ? ?????????????? ??? ?????????? ??? ?????????? ??? ???? ?????? ???
?????????, ?????????? ??? ?????? ?????? ?????? ?????? ??????.

93 ??????, ???? ????? ???????????, ? ???? ??? ????? ?????????????? ?????????? ?? ???
????????????????? ??? ?????????????? ??? ?????? ?????? ?????????????? ???' ?????? ????
????????????? ??? ???????????, ???? ?? ??? ?????? ?????? ?????????????? ??????????????????
????????????? (??????? ??? 3?? ?????????? 2019, ??????? ?????????? ???
????????????? ??? ???????????, C?482/17, EU:C:2019:1035, ?????? 164 ??? ???
????????????? ??? ??????????).

94 ????????, ? ???? ??? ?????????????? ??????? ?? ?????? ?? ?????????????? ???
?????? ??? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? ???? ?????????????? ???
??? ?????? ?????? ?????? ??? ?????? ??? ?? ??? ?????????? ?? ?????????? ??? ??? ??????
??? ?????? ?????? ?????? (??????? ??? 3?? ?????????? 2019, ??????? ?????????? ???
????????????? ??? ???????????, C?482/17, EU:C:2019:1035, ?????? 76 ??? ???
????????????? ??? ??????????).

95 ???? ?????? ??? ?????????? ?????? ??? ??????? ??? ???? ???? ??????????????, ??
????????? ??? ????? ?????????? ??? ?????? ?????????? ??? ??????, ??? ?????? ?????????? ???
????????? ???, ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ?????????? ???
????? ?? ?????? ?????? ?????????????? ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ???
??? ?????????? ? ?????????? ????. ??????????, ?? ?????? ??? ?????? ?? ?? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????????
????? ?????? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??????????
?? ?????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? (??????? ??? 3??
????????? 2019, ??????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? C?482/17,
EU:C:2019:1035, ?????? 77 ??? ??? ?????????? ??? ??????????).

96 ??? ?????? ?? ?????????????? ??? ? ?????????? ??? ?????? ?????? ?? ??? ?????? ??????
????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ??????.

97 ????????, ? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????, ? ????
????????? ?????????? ?????????? ??? ?????? ??? ?????? ???, ??? ?????? ?????? ?? ???
??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
?????, ?? ?????????? ??? ?????? ?????? (??????? ??? 3?? ?????????? 2019, ???????
????????? ??? ?????? ?????????? ??? ?????? ?????? C?482/17, EU:C:2019:1035, ?????? 78 ???
????? ?????????? ??? ??????????).

98 ????????, ?????? ??? ????? ?????? ?????? ?????? ?????? ?????????? ??????????, ? ?????????? ???
????? ?????? ?? ?????? ??? ?????? ??? ?? ?????????? ?????? ?????????? ??? ???? ??????
?? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?? ?????????? ???
????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????.

? ??????????????. ??????????, ????? ???? ?????? 5 ??? ?????????? (????. 2) ??????? ??
??? ??????? ??? ?????? ??? ?????????????? ??? ??? ??????????????, ?? ?????? ???
????????????? ??? ?????? ?? ??? ??? ?????? ???, ??? ?????? ??? ?????????????? ???????
????? ?? ?????????? ?????? ?? ?????? ?? ?????????????? ??? ?? ?????????????? ??? ??
????????????? ??? ?????? ?? ?????, ??? ?????????????? ?????? ???, ???????,
????????????? ??? ?????????????? ??? (?????? ??? 3?? ?????????? 2019, ???????
????????? ??? ?????????????? ??? ?????????? C?482/17, EU:C:2019:1035, ????? 79 ???
???? ?????????????? ??????????).

99 ????????, ????? ???? ?????????????? ??????? ?????????????? ??????? ?????????? ??
????? ?? ??????? ?????? ??? ?????? ??? ?????????? ??? ??????? ?????? ?? ?????? ??
?????????? ?????? ??? ?????????????? ??? ? ?????? ?????????? ??? ?????????? ?????????? ???????
??? ??????? ?????????? ??? ?????????? ?, ?????? ?????????? ??? ?????????? ?????? ??? ??
????????? ?????????? ??? ?????? ?? ?????????? ?????????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????? ?? ???????, ?? ?????? ?????? ?????, ???????????, ??
????????? ?? ?????????????? ??? ?? ?????????? ?????? ??? ?????? ??? ?? ?????????????? ?? ???????
????????? ?? ?????? ?????? ?? ?????? ?????? ??? ?????? ?? ?????? ??? ?? ?????????? ??? ??
?? ?????? ?????? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? (?????? ??? 3?? ?????????? 2019, ??????? ?????????? ??? ?????????????? ???
????????? C?482/17, EU:C:2019:1035, ????? 81 ??? ????? ?????????????? ??????????).

100 ??? ?? ?????? ?????? ?????? ??? ?????????? ??? ?????????????? ?????? ?? ?????????? ?? ??? ??
??? ?????? ?????? ?????? ??????.

2) ??? ?? ?????? ?????? ??? ?????? ?????? ?????? ??????????, ?? ??? ?????? ??????????
?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??????.

101 ??? ??????, ? ?????????? ??? ?????????? ?????????????? ??? ? ?????????????? ???
?????? ??? «????????? ???» ??? ??? ?????? ??? «?????», ??? ?????? 3,
????????? 1, ?????? ??????, ?????????? ?, ??? ?????????????? ?????? 96/71, ???????
????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????? ?????? ???????, ??????? ?
????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????????? ??????????
????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

102 ?? ?? ??? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?????????????? ??? ?????????? ??
????? ??? ?????? ??? ?????? ?????? ??? ??????????, ? ?????????????? ?????? 96/71
?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????????????? ?? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ??? ??????.

103 ? ?????????? ?????????? ??? ?????????? ?????????????? ??? ?????? ?? ?????????? ??
????????? ??? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?? ?????? ?????? ??? ??
??? ?????????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ??? ??????.

104 ??? ?????????? ??? ?????? 56 ??? 90 ??? ?????? ?????? ?????? ? ?????????? ??
????? ?????? ??? ??? ?????? ??? ?????????????? ?????? ?? ?????????? ??? ??????.

? ?????? ?????????? ?? ?????? ???, ??? ?????? ?????????????? ?????????? ??? ??????????
????????????? ? ?????? ??? ?????????? ??? ?????? ??????, ??? ?????? ??? ?????? ??????,
???? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??????, ?????????? ??? ?? ?
????????? ?????? ?????? ?????????????? ??? ?? ?????? ?????? ??????, ??? ?????? ?????? ??????
????????? ?????? ?????? ?????????????? ?????????? ??????, ? ?????, ??????, ??????, ?????? ??
???? ??? ?? «????????? ??? ?????? ?????? ?????? ?????? ?? ?????? ???», ??? ??????
? ?????????? ?????? 10 ??? ?? ?????? ??????.

105 ?? ?? ??????, ? ?????????????? ??????, ??? ?????? ??? ?????????? ?????????? ??????????
?? ?????????? ?????? ??????????, ?????????? ?? ?????????? ??? ?????????? ??? ??????????
????????? ?????????? ??? ?????? ??? ??????, ??? ?????? ?????????? ?????? ? ?????? ??? ??????????
?? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ???,
??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???.

106 ??? ?????? ???, ??? ?????????? ??? ?? ??? ?????? ??????, ? ?????????????? ??????
????????? ?? ?????????? ??? ?????????? ?? ?????? ??? ?????? ?????? ?????? ???
????????????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ???,
????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????????? ??? ?????? ??????, ?????????? ???, ?? ?????????? ?? ???
????????? ? ?????????? ??? ?????? ??????, ? ?? ??? ?????? ?????? ?????? ??? ?? ??????????
??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????, ? ?????? ??????
??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 16.

107 ??????, ?????????? ??? ? ?????????? ?????? ?????? ??? ?????? ?????????? ?? ???,
???? ??? ?????????? ??? 16, ?? ?????????? ??? «????????? ?????????? ?????????? ???
????????? ?????? ?????? ???» ???, ??? ??? ?????????? ??? ?????? 4, ?? ?????? ??
??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
«????????? ?????? ?????? ???».

108 ??? ??? ?? ?????? ?????????? ???, ??? ?????? ??? ?????? ??? ?????????? ???
????? 104 ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? «?????» ??? ?????????? ??? ??? ?????? ??? «????? ?????? ???»
??? ?????? ?????? ? ?????? 96/71, ??? ???? ?????? ?????????? ?????????? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ???.

109 ??? ??????, ? ?????????? ??? ?????? ?????? ?????????? ???, ??????, ??? ? ??????
????? ?????? ??? ?????? ?????? ??? ?????? 56 ??? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???.

110 ??????, ?????????? ???' ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

111 ??????, ??? ? ?????????? ??? ?????? ??? «????????? ???? ???» ??? ??
????? ??? «?????», ??? ?????? 3, ?????????? 1, ??? ?????? ??????, ?????????? ??, ???

????????????????? ??????? 96/71, ???? ? ?????????? ?????? ?????????????????? ?????????????????? ???
???? ?????????? ??? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
??? ?????? ????????, ?????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????? ???
????? ??? ??? ??? ?????????????????? ?????? ?????????? ??? ?????? ?????????????? ?????? ??? ??? ?
?? ??????? ?????????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ??? ?????
????????????? ??? ?????? ??? ??????.

113 ?????????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? 67 ??? ?????
?????????, ? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ?? ??????????????
??? ?????? ? ?????????????? ??? ?????? ??? ?????? 3, ?????????? 1, ?????? ??????, ???
?????? 96/71 ?????????? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??????, ??? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????????? ??
????? ??? ??? ??? ?????????? ?????????? ?????? ?????? ??????????????
?????????????

114 ????????, ? ?????????? ??? ?????????? ?????????????? ??? ?? ?????????? ?????????? ???
????? ?????????????? ?? ???? ?????? ?????? ?????????????? ?? ?????????????? ?? ????
????????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??????????????
??? ?????? ??? ??????????, ?????? ?????? ?????????????? ?? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

115 ????? ??? ?? ??????? ?? ??? ?????????????????? ????????????????, ? ?????????????????? ???????
????? ?? ??????????? ?? ??????? ?? ?????? ?????? ?????? ?????????? ?? ?????? ?????? ?????????????? ??
????? ?? ?????? ??????????? ?? ?? ?????? ?????? ?????? ?????????? ?? ?????? ?????????? ?????????? ??
??? ??????? ?????????? ??? ?????? ?????????????????? ??? ?????????? ??? ?????? ??????, ??????? ??
????? ??????? ?? ??????????? ?????? ?????????????? ??? ?????????????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ???
?????????.

116 ????????, ??? ?????????????? ??? ?????? 102 ??? 103 ??? ????????, ??
????????????? ??? 96/71, ?? ?? ??? ?????? ??? ?? ?????????? ??? ??? ?????????? ??
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ??,
????????? ??? ?? ?????? ?????? ??? ?????? ?????? ?????????????? ??? ?????????? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????????? ?????????? ??? ??? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ?????? ?????????? ??? ??????
????? ?????? ??? ?????? ?????? ?????? ?????????? ???.

117 ????? ?????? ??? ?????????? ??? ?????????????? ?????????????? ??? ?????????????? ???
?? ?????? ??? ? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ??? ??
????????? ??? ?? ?????? ?????? ?????? ??? ?? ??? ??????, ?????? ?????? ??? ?? ??? ??????????
????? ?????? ?? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ??
????????? ??? ?? ?????? ??? ?? ?????? ?????? ?????? ?????? ???.

118 ??? ??? ??? ?????? ??????, ? ??????????? ??? ?????? ??????? ??????? ??? ???
???????????, ??? ?? ?? ??? ????? ??????? ???????, ?? ?????? ? ?????? ??? ??????????? ??
?????????? ?????? ?????? ?????? ??? ??????????? ??? ??? ??????????? ?????? ??? ???????
????? ???????, ??? ?????????? ?? ??? 3, ?????????? 1, ?????? ????, ??????? ??,
??? ??????????????? ??????? 96/71, ??????????? ?? ??? ?????? ??? ????????? ?? ??????????? ??

? ?????????? ?? ?????? ??? ???? ????? ??????, ??? ???, ??? ?????????????? ?
????????? ??? ????????, ??? ?????? ??? ?? ??? ?????? ??? ?????????? ?? ?????????? ??
????? ??? ??? ??? ??? ?????? ?????? ???.

119 ??? ??????, ? ?????????? ??? ?????? ?????????? ??? ?? ?????????????? ???
????? ? ?????????????? ?????? ??? ?????????????? ??? ?????????????? ?????? ??????
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????????? ??? ?????? ???
????????? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
????? ??? 96/71.

120 ? ?????????????? ??? ?????? ?????? ??? ?????? ???, ?? ??? ??????????????
??????, ? ?????????? ??? ?????? ?????? ?? ?????? ?????????? ?? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ???
??? ?????? ?????? ??????.

121 ? ?????????? ???, ???, ??? ?????? ?????????? ?? ?????? ??? ??? ?????? ???
????????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???,
??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ???
??????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?? ??? ?????????? ???, ??? ??? ?????? ?????? ??? ?????? ???
????????? ??? 16 ??? ?????? ???.

122 ??????, ?? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????????? ??
«?????» ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????. ? ?? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ?? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?? ?????? ??? ?????? ??? ?????? ???.

123 ??????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ??????????.

3) ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ??? ?????? ?????? ??????????
?? ?? ??? 3, ?????????? 1?, ??? ?????????? 96/71 ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ?????????? ???
????????? ??? ??????

124 ??? ??????, ?? ??? 3, ?????????? 1?, ??? ?????????? ??? 96/71
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ? ??? 18 ??? ???? ???? ?????? ??????????
????????? ??? ?????? ?????????? ??? ?????? ???, ? ?????????? ?????? ???, ??? ??? ???
??? ??? ?????????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? 3, ?????????? 1, ??? ?? ??? ??????, ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? /??? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??? 3, ?????????? 1?, ??? ?????????? 96/71,
??????, ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???, ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

125 ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? 95 ??? 96 ??? ?????? ??? ?????? ???, ? ?????? ???

126 ????? ????????, ??? ????? ?? ?????????? ??? ?? ?????? 3, ?????????? 1?, ???
????????????? ?????? 96/71 ?????????? ?????????? ?????????? ?????????? ??? ??????????
????????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??????
????????? ??? ?? ?????? ?????? ?????????, ??? ??? ?? ?????? 102 ??? ?????? ??????
????????? ???, ?? ?? ??? ?????? ??? ?? ?????????? ??? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??????????????, ? ?????????????? ??????
96/71 ?????????? ??? ?? ?????? ?????????? ??? ?????? ?????????? ?????????????? ??? ??????
????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ???
????? ?????? ?????????????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??????
????????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???
?????.

127 ????????, ??? ?????????????? ??? ?????? 103 ??? ?????????? ????????, ??? ??????? ??
?????? ??????? ??? ?????? ?????? ?????? ??????????, ? ???????? ?????????? ??? ??????????
????????? ??? ?????? ?? ?????????? ?? ?????? ??? ?????? ?? ?????? ?????????? ??????????
????????? ??? ?????? ??????? ?? ?????????????? ?? ??? ?????????????? ??? ?????? 96/71, ?
?????, ?? ??????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ??????????????, ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ?? ??????? ??? ?????????? ??? ?????????? ?????????????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ??????? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ?????? ??????????.

128 ????? ???????, ???? ?? ??????????? ?? ?? ?? ?????? ?????????????? ??????????? ??
????? ?? ?????????? ?????? ?? ?????? ?????????? ? ?????? ?????????? ?? ?? ?????????? ??
????????? ?? ?????????? ?????? ?????????? ?? ?????? ?????????? ?????????? ?? ?????? 3,
????????? 1?, ??? ?????????????? ?????? 96/71, ?????????? ? ?????????? ?? ?
????? ?? ?????? ?? ?????????? ?? ?????? ??????, ???? ?????? ??????????, ?? ?????????? ??????????
????????????? ?? ?????? ?????? ?????????? ?????????? ?? ?????? ??????, ?? ?????? ?????? ????
????? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?????? ??????, ?? ?????? ?????? ?????? ??
????????? ???.

129 ???????, ?? ??? 3, ?????????? 1, ??????? ??????, ??? ?????????????????? ??????
96/71 ??????? ?? ???? ????? ?????????????? ????? ?????? ?????? ?????? ?????? ??
????????????? ?? ?????? 5 ?? ?????? 2014/67, ??????? ? ???? ?????? ?????????? ?/???
????????, ?????????? ?? ??? ??? ????? ?????????? ?? ??????????????, ????? ?? ?? ?? ??
???? ?? ????? ?????? ?? ?????????????? ?? ?????????????? ?? ?? ?????? 3, ?????????? 1?,
?? ?????????????? ?? 96/71.

130 ????? ??????????, ? ??????????? ??? ?????????? ?????????????? ?? ?????? 9 ??? ??????????????
«????? ?» ??? ?????????????? ??? ? ?????????????? ?????? ??? ?????????? lex specialis, ??? ????
?????? ??? ?????? 23 ??? ???? ??????????.

131 ?? ???? ?? ?????????? ????, ???????, ?????????????? ??? ?? ???? 8 ??? ??????????
«???? ?» ?????????? ????, ?????????? 1 ?????? ?????? ?????????? ?????? ?????????? ???,
????????? ?????????, ? ?????? ?????????? ?? ?????? ??? ?????????? ?? ?????????????? ?? ???
????? ???????, ???, ??? ?????????? 2, ?????????? ???, ??? ??? ??? ?????? ??????? ??????
??????, ? ??????? ??????? ??????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ????.

????????? ?????, ??? ??? ????? ??????? ??????? ??? ??????? ??? ? ????????????, ? ?? ???
???? ??? ???????? ??? ??????? ??? ? ??????????? ?????? ?????????? ??? ??????? ??? ??????? ???
?? ??? ???.

132 ??????, ??? ??? 23 ? ?????????? «???? ?» ?????????? ?? ?????????? ??????????????
??? ??? ?????? ?????????? ??????? ??? ? ?????? ???????, ?? ?????????? ??? ??????????
?? ?????? ??? ?????? ?????? ??????? ??? ?? ?????????? ?????? ??? ??????????
?????? ?? ?????????? ??????, ??? ??? ??????????? ????? 40 ??? ?????????? ???
????????? ??? ? ?? ??? ?????????? ??? ?????????? ?? ?????????? ?????????????? ??????
????????? ??? ?????? ??????? ?? ??? ?????????? ?????? ?? ?????????? ??? ?????????? ???
????? ??? ?????? ?????? ?????????????? ?????.

133 ?? ?? ??? ?????? ??? ??? ?????????? ???, ??? ?? ??? 3, ?????????? 1, ???
????????????? 96/71, ??? ??? ?????? ??? ?????????????? ??????????????, ??? ??? ??
??? 3, ?????????? 1?, ??? ??? ?????? ??????, ??? ??? ?????? ??? ?????????????? ??????????????
??? ?????? ?????? ?????? ?????? ??? ?????? ?????, ?????????? ?????? ?????????? ??????
????????? ???, ??? ??? ?????? ??? ?????? 23 ??? ?????????? «???? ?».

134 ??????, ?? ?????????????? ?????? ??? ?????????? ??? ?????????? «???? ?» ??????????
??? ?? ??? 23 ??????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????????? ???
??? ?????? 96/71, ????, ??? ?????? ?????? ??? ?????????? ??? ?????????? ?????????? ???
????????? ??? ?? ?????????? ?????? ?????? ?????? ?????? (????? ?) [COM(2005) 650
?????], ??? 15?? ?????????? 2005, ? ?????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ?????????? ??? ?????? ??? ?????????? ?? ??? ?????? ?????????? ??? ?????????? ???
????? ??? ?????? ??? ?????? ???.

135 ????, ??? ? ?????????? ??? ?????????? ?????????? ??? ?? ??? 3, ??????????
1?, ??? ?????????? 96/71 ?????????? ??? ?? ??? 9 ??? ?????????? «?????
?», ??? ? ?????????? ??? ?? ?????????? ??? ?????, ?? ?????? ?????? ?? ??????????
?????, ?????????? ??? «????????? ??? ?????? ??????????» ??? ?????? ???, ??? ??
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??????????
??? ??? ??? ?? ?????????? ??? ?????????? ??? (?????? ??? 18??
????????? 2016, ??????????, C?135/15, EU:C:2016:774, ?????? 41 ??? 44). ??? ??????,
????, ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
????? 3, ?????????? 1?, ??? ?????????? ?????? 96/71 ??? ?????? ?????? ??????????
????????? ?????? ??????????.

136 ??? ??????, ? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????
??? ?? ??? 3, ?????????? 1?, ?????? ??????, ??? ?????????????? ?????? 96/71,
?????? ?? ??? ??????, ??? ??? ?????????? ?????????? ??? ?????????? ?????? ??????????
?? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ?
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? 1?, ?????? ? ??????????
????????? ??? ?????????? ?????????? ??? ?? ??? ?????????? ?????????? ??????????
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ???.

137 ?????????? ??? ?????????? ??? ?????? 3, ?????????? 1?, ??????? ??????, ???
????????????? ?????? 96/71, ? ?????????? ??? ?????? ?????? ?????? ??? ??????
????????? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ???
????? ??? ??? ????? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ?????? ?????????? ???
??? ?????? ?????? ??? ?? ?????????????????? ??? ?????? ??????????????, ??? ?????? ?????? ??
????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? 11 ???
????????????? ??? ??????.

138 ?????????????? ?????? ??? ?????????????? ??? ?????????? ??????, ?? ??????? ????? ?
????????????? ?????????????? ??? ?????????? ?????????? ??? ?????? ?????????????? ???
????????????? ?????????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????????????. ????????, ?
????????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ??????
??? ??? ?????? ??? ?????????? ????, ?????? ? ??? ?????? ?????? ?????????? ?????? ???
????????? ??? ?????????? ??? ??????.

139 ???????, ?????? ?? ??????????? ?? ??????? ?????? ?? ?????? ?????? ?????? ??????????,
????? ?? ???? ? ?????? ?????? ?????? ??? ?????? ???.

3. ???? ??? ?????? ?????? ???????????, ?? ??? ?????? ???????????, ??????????
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????????????
?????????

1) ?????????????? ??? ??????

140 ? ?????????? ?? ??????? ???? ?????????? ?? ? ?????????? ?????? ?? ?
????????? ?? ???? ?? ???? ???? ???? ??????, ????, ?????? ?? ? ???? 58 ????, ?
????????? ?? ?????????? ?? ???? ?????????? ?? ???? ???? ???? ?????????? ?????? ?? ?
????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????????? ?? ???? ??????????, ?? ???? ?????? ??
????? 56 ????. ?? ???? ?????? ?? ?????.

141 ? ????? ?????????????? ??? ?????????? ??? ??????????, ??? ?????? ?????? ??? ?? ?????? ???
????????? ??????? ??? ?????????? ??? ?????? 96/71 ?????????? ??? ? ?????? ??? ??????????
????????????? ??? ?? ????? ?????????? ??? ?????????? ??? ?????????????? ??? ??????????
?????????????.

142 ?? ??????????? ??, ?? ?? ??????????, ??????????????? ??, ?? ?? ???????????
?????????? ??, ?? ??????????, ?? ?? ??????? ??, ?? ?? ???????, ?? ?? ??????? ??, ?? ??
??????, ?? ?????????? ??, ?? ??????????????? ??, ?? ?? ??????????? ??, ?? ?? ???????.

2) ?????????? ??? ??????????????

143 ? ?????????? ??? ???????? ?????????????? ??? ?? ????? 3, ?????????? 3, ???
????????????? ??? ?????? ?????????? ??? ????? 58 ????, ?????? ?????? ?????????? ?????????? ???
????? ??? ?????? ?????????? ??? ?????????? ?????? 96/71 ??? ??? ??????????
????????? ?????? ?????????? ??????.

144 ????? ?? ?????? 58 ????, ? ?????????? ??????????? ??? ?????????? ??? ?????? ???
????????? ???????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ???????????, ???,
??? ?? ????? 90 ??? 100 ???.

145 ???????, ??? ??????? ??? ?????? ??? ?????????, ??? ??? ?????? ??? ?????? 58,
?????????? 1, ???, ??????????? ??? ?? ????? ?????????? ??? ?????? 56 ??? (?????? ???
20?? ??????? 2017, Asociación Profesional Elite Taxi, C?434/15, EU:C:2017:981, ??? 48).

146 ?? ????? 3, ?????????? 3, ??? ?????????????? ?????? ?????????? ?????????? ??? ?
?????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??? ??????????
????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? 2006/22, ? ?????? ??? ??
????? ??? ?? ????? 71, ?????????? 1, ?? ??? ?????????????? ??? ?????????? ??? ??????
??? ??????? ?? ??? ??? ?????????? ??? ?????????? ??? ?????? 91 ???.

147 ???????, ?? ????? 3, ?????????? 3, ??? ?????????????? ??? ?????? ??? ?????? ??
?????????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
??, ?? ?? ??????, ??? ?????? ?? ?????????? ??? ?????? 58 ???.

148 ??? ???????, ?????? ?? ?????????? ? ?????? ??? ???????, ?????? ??? ??
?????????? ???.

IV. ??? ??? ?????????? ????

149 ??? ?? ????? 138, ?????????? 1, ??? ?????????? ?????????? ??? ???????????, ?
????????? ?????? ?????????? ??? ?????, ?????? ?????? ?????? ?????? ?????? ???
????????? ??????. ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ?????? ???
??????, ? ?????????? ??? ?????????? ?????, ?????? ???????, ?? ?????????????? ???
????????? ???.

150 ?????? ?? ?? ????? 140, ?????????? 1, ??? ?????? ??????????, ? ???????????
?????????? ?? ???????, ? ?????? ??????????, ?? ?????? ??? ?????? ??? ??, ??
????????? ?? ??????? ?? ?????? ??? ?????? ?? ?????? ?? ?????????? ??? ?? ?????? ??
??? ???.

?? ????? ?????? ????, ?? ?????????? (????? ?????? ??????) ??????????:

1) ?????????? ??? ???????.

2) ? ?????????? ??? ??????? ????, ?????? ??? ?????????? ?????? ???, ??? ??
????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?? ?????????? ??? ??
????????? ???.

3) ? ?????????? ??? ???????, ? ?????? ?????? ??????????, ??
????????? ??? ??? ?????, ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ???????
????? ?? ??????? ????.

(?????????)

* ?????? ??????????: ? ???????.